

REMARKS

The Examiner has again Claims 1-4, 6, 7, 9, 11-14, 16, 17 and 19-23 under 35 U.S.C. 102(e) as being anticipated by Webber, Jr. Applicant respectfully disagrees with such rejection, especially in view of the amendments made hereinabove.

Specifically, applicant now claims, in each of the independent claims, the following subject matter:

“wherein the contract is created by advertising a capability to a control component which handles contract negotiations, receiving a proposed contract based on the capability, accepting the proposed contract, receiving a seal message, receiving and storing a fallback proposed contract, and if replacement of the proposed contract is required, replacing the proposed contract with the fallback proposed contract.”

Thus, applicant now claims a contract creation technique for advertising capabilities and, in response, receiving a proposed contract which may be accepted. Further, a seal message is used for completing the contract negotiation. Still yet, a method is provided for replacing the proposed contract with a fallback version, if required. Simply nowhere in Webber or elsewhere, for that matter, is there such a contract creation technique embodying the foregoing features taught and claimed (in the context of the remaining claim elements).

A notice of allowance or a specific prior art showing of all of applicant's claim limitations, in combination with the remaining claim elements, is respectfully requested.

The Examiner has rejected Claims 5 and 15 under 35 U.S.C. 103(a) as being unpatentable over Webber, Jr., as applied above, and further in view of Bigus. By virtue of the dependence of such claims on the independent claims discussed

hereinabove, such claims are deemed allowable along with the remaining pending dependent claims.

Still yet, applicant brings to the Examiner's attention the subject matter of new Claims 24 and 25 below, which are added for full consideration:

"wherein the proposed contract is selected from a predetermined set" (see Claim 24); and

"wherein it is determined that replacement of the proposed contract is required when the interaction governed by the proposed contract no longer meets criteria of a cost model" (see Claim 25).

Again, a notice of allowance or a specific prior art showing of all of applicant's claim limitations, in combination with the remaining claim elements, is respectfully requested.

In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at (408) 505-5100. If any fees are due in connection with the filing of this paper, the Commissioner is authorized to charge such fees to Deposit Account No. 50-1351 (Order No. NAI1P002/00.056.01).

Respectfully submitted,


Kevin J. Zilka
Registration No. 41,429

P.O. Box 721120
San Jose, CA 95172
Telephone: (408) 505-5100